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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/698,815

Filing Date: October 30, 2003

Appellant(s): ROY ET AL.

Sumit Roy et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 5-16-08 appealing from the Office action mailed 12/7/07.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

6,665,706

Kenner et al.

12-2003

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-50 are rejected under 35 U.S.C. 102(e) as being anticipated by US 6,665,706 issued to Kenner et al.(Kenner).

As per claims 1,10,19,29,38,42,44,48,Kenner teaches a network system comprising:

a plurality of content providers(Fig.1,col.7, lines 15-20);

a plurality of service providers(Fig.1, col.7, lines 5-20);

a plurality of client devices, wherein one of said content providers, one of said service providers, and one of said client devices form one of a plurality of media service sessions, wherein said media service sessions include a streaming technique(Fig.1, col.7, lines 60-65); and

a service manager for managing handoff of media service sessions among said service providers based on information received(col.14, lines 27-col.15, line 47), and wherein said service manager uses said information to determine whether to initiate a handoff of any of said media service sessions from a service provider to another service provider(col.14, lines 27-col.15, line 47);

if it is determined to initiate said handoff, initiating said handoff(col.14, lines 27-col.15, line 47).

As per claims 2-5, 11-14, 20-24, 30-33,39, 43, 45,49, wherein said information includes information received from said service providers(Kenner, col.8, lines 28-49), information associated with location and priority of service modules that are involved in any one of said media service sessions(Kenner, col.12, lines 59-67, col.13, line 40-43), information received from any client device that is involved in any one of said media service sessions(Kenner, col.8, lines 41-49), information associated with network conditions(Kenner, col.10, line 50-67), and information associated with any content provider that is involved in any one of said media service sessions(Kenner, col.9, lines 5-45).

As per claims 7,8,16,17,26,27,35,36,41,47,50, wherein said determination to initiate said handoff is made before a need for said handoff is absolutely necessary, and wherein said determination to initiate said handoff is made based on a pattern associated with said information(Kenner, col.9, line 64-col.11, line 20).

As per claims 6,15,25,34,40,46, further comprising a content delivery network including said plurality of content providers, wherein said information includes information associated with said content delivery network that is involved in any one of said media service sessions(Kenner, Fig.1, col.9, line 64-col.11, line 20).

As per claims 9,18,28,37, wherein said media service sessions include a streaming technique(Kenner, col.7, lines 60-65).

(10) Response to Argument

The examiner summarizes the various points raised by the appellant and addresses replies individually.

As per appellant's arguments filed on 5/16/08 , the appellants argues in substance that;

a) Kenner does not teach, "receiving information associated with said media service sessions at a service manager";

In reply to a); Kenner, col.14, lines 26-67, Fig.3, in one embodiment teaches, a browser program that runs on the user's terminal used to access web pages. There are EMBED tags that are used within HTML documents to indicate which web pages include content managed by the system. When the browser program receives a web page containing an EMBED tag, a download of the file referenced by the tag is commenced, and the file type is analyzed. If the file is of a type handled by the player program (a player program enables the retrieval and playback of video data), e.g. MPEG, the browser program initiates the player program. The contents of the tag are passed by the browser program to the player program.

The player program analyzes the EMBED tag to determine if there is a Smart Mirror(SM) parameter. There are data associated with the "SM" parameter that specifies the particular content provider from which the desired clip(MPEG) originated, as well as the group of mirror servers that particular content provider uses.

If the player program determines that the EMBED tag references a video clip or other content handled by the system, the transfer of the embedded clip(MPEG) from the content provider is stopped.

During patent examination, the pending claims must be "given >their< broadest reasonable interpretation consistent with the specification." > *In re Hyatt*, 211 F.3d 1367, 1372, 54 USPQ2d 1664, 1667 (Fed. Cir. 2000). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. *In re Prater*, 415 F.2d 1393, 1404-05, 162 USPQ 541, 550-51 (CCPA 1969).

The EMBED tag is considered to be the "information associated with the media service session" since the EMBED tag determines what file type e.g. MPEG and further contains SM parameter to determine a particular content provider from which the desired clip originates.

The Office considers the "player program" as the "service manager" because a "service manager" in it's broadest interpretation is merely some program/device that manages a service. The "player program" of Kenner, enables the retrieval and playback of video data, which in essence manages video data.

Therefore, Kenner teaches, "receiving information associated with the media service session at the service manager". The EMBED tag is passed to the player program.

b) Kenner does not teach, "using said information at said service manager to determine whether to initiate a handoff of any of said media service sessions from a service provider to another service provider".

In reply to b); Kenner, col.14, lines 59-col.15, lines 27, teaches the player program analyzes the EMBED tag to determine if there is a Smart Mirror(SM) parameter. There are data associated with the "SM" parameter that specifies the particular content provider from which the desired clip(MPEG) originated, as well as the group of mirror servers that particular content provider uses.

If the player program determines that the EMBED tag references a video clip or other content handled by the system, the transfer of the embedded clip(MPEG) from the content provider is stopped. The EMBED tag may include EMBED statement. This statement includes access control and rating information.

The player program then determines whether the desired clip is local to the computer. If the desired clip is local, then it is played directly on the computer. However, the time and date of creation of the clip on the local computer is first verified against the time and data for the clip available on the network, to determine if the stored clip is the most recent version. If not, the stored clip is discarded and the download proceeds as follows.

If the clip does not exist on the local computer, the player creates a new URL with information from the EMBED parameter. This URL is used to retrieve the selected clip from the appropriate Smart Mirror site(Kenner, col.3, lines 65-col.4, lines 15, col.5, lines 22-29, col.6, lines 20-39, a Smart Mirror site is a website that is essentially

identical to that of the original site but takes into consideration network analysis as end-to-end performance measurements, workload characterization, route stability, and outage metrics, e.g. the most efficient web site for download).

If the clip corresponding to the constructed URL is not found at the Smart Mirror site, or is unable to be accessed, then the download proceeds from the next highest ranked Smart Mirror site in the configuration file. If all deliver site fail, the download proceeds from the original content provider's site.

A "service provider" is interpreted as any provider that provides any type of service. The Smart Mirror site of Kenner, is considered to be a "service provider" since a desired media clip can be download from the Smart Mirror site.

Kenner, col.14, lines 59-62, explicitly teaches the player program determines that the EMBED tag is used to determine whether to stop the transfer of a clip from the content provider. When it is stopped, then the player program determines which Smart Mirror site, the clip should be downloaded from.

Kenner, teaches "using said information at said service manager to determine whether to initiate a handoff of any of said media service sessions from a service provider to another service provider". The EMBED tag determines to stop downloading/transfer the desired clip from the content provider and instead download/transfer from a Smart Mirror site.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Backhean Tiv/

Examiner, Art Unit 2151

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